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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/902,899	07/11/2001	Steven C. Amendola	A34318; 065617.0139	9648
24998	7590	10/23/2006		
DICKSTEIN SHAPIRO LLP 1825 EYE STREET NW Washington, DC 20006-5403			EXAMINER NECKEL, ALEXA DOROSHENK	
			ART UNIT	PAPER NUMBER

1764

DATE MAILED: 10/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/902,899

Applicant(s)

AMENDOLA ET AL.

Examiner

Alexa D. Neckel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-6,10,12,15-17 and 25-65 is/are pending in the application.
- 4a) Of the above claim(s) 3,4,8,10,12,15-17,30,33-45,48 and 50-65 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 25-29, 31, 32, 46, 47 and 49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1, 25-29, 31, 32, 46, 47 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kojima et al. (2001/0022960) in view of Edlund et al. (6,375,906) or Davenport (4,012,016).

With respect to claims 1, 25-29, 31, 32, 46, 47 and 49, Kojima et al. discloses an apparatus comprising:

- a catalyst chamber (2) having an internal pressure;
- a fuel chamber (1) to store hydrogen generating borohydride reactant (4);
- a spent fuel/product chamber (8);
- a conduit (9) in communication with the spent fuel chamber (8) and the fuel chamber (1);
- a hydrogen gas outlet (not numbered, see figure 1) connected to the gas conduit (9) via (8); and
- a compressor (10) is located within the conduit.

Kojima fails to disclose wherein a check valve is located in the conduit (9).

Both Edlund et al. and Davenport disclose wherein it is desirable to have a check valve in the line associated with a compressor. Edlund et al. teaches such an arrangement is desirable in order to prevent back flow that could pressurize the source

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(col. 4, lines 44-48) and Davenport also teaches wherein such an arrangement is desirable in order to prevent back flow (col. 5, lines 26-32).

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the line (9) associated with the compressor (10) of Kojima et al. with the check valve of either Edlund et al. or Davenport in order to gain the recognized advantages of back flow prevention.

Regarding limitations recited in claims 1, 25-29, 31, 32, 46, 47 and 49 directed toward the manner of operating a device, such limitations do not differentiate an apparatus claim from the prior art. A recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus if the prior art apparatus teaches all the structure limitations of the claim. See MPEP 2114.

Regarding limitations recited in claims 1, 25-29, 31, 32, 46, 47 and 49 directed toward material worked upon do not limit an apparatus claim. MPEP 2115.

Double Patenting

3. Claims 25-29, 31, 32, 46, 47 and 49 continue to be provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-13 of copending Application No. 10/638,651. Although the conflicting claims are not identical, they are not patentably distinct from each other for the same reasons presented in paragraph 8 in the Office Action filed September 8, 2005.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

4. Claims 25-29, 31, 32, 46, 47 and 49 continue to be provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-45 of copending Application No. 10/115,269. Although the conflicting claims are not identical, they are not patentably distinct from each other for the same reasons presented in paragraph 11 in the Office Action filed September 8, 2005.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

5. Claims 25-29, 31, 32, 46, 47 and 49 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-34 of U.S. Patent No. 6,932,847. Although the conflicting claims are not identical, they are not patentably distinct from each other for the same reasons presented in paragraph 7 in the Office Action filed September 8, 2005.

6. Claims 1, 25-29, 31, 32, 46, 47 and 49 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-18 of U.S. Patent No. 7,083,657. Although the conflicting claims are not identical, they are not patentably distinct from each other for the same reasons presented in paragraph 9 in the Office Action filed September 8, 2005.

7. Claims 25-29, 31, 32, 46, 47 and 49 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-28 of U.S.

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Patent No. 7,105,033. Although the conflicting claims are not identical, they are not patentably distinct from each other for the same reasons presented in paragraph 10 in the Office Action filed September 8, 2005.

Response to Arguments

8. Applicant's arguments filed August 10, 2006, with respect to Amendola et al. in view of Carlson, Jr; Kojima et al. in view of Nordskog; and Falter in view of Holmstrand have been fully considered and are persuasive. The rejections of 1, 25-29, 31, 32, 46, 47 and 49 based on these references have been withdrawn.

It is noted that a new grounds of rejection is presented above.

It is also noted that three of the previously provisional Double Patenting rejections applications have issued as patents therefor those rejections are no longer provisional.


Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexa D. Neckel whose telephone number is 571-272-1446. The examiner can normally be reached on Monday - Thursday from 9:00 AM - 7:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Caldarola can be reached on 571-272-1444. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Alexa D. Neckel
Primary Examiner
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October 18, 2006